

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DWAYNE WRIGHT,

Petitioner,

V.

MARGARET GILBERT,

## Respondent.

CASE NO. C16-5097 RBL-KLS

**ORDER DENYING PETITIONER'S  
MOTIONS FOR COUNSEL AND  
EVIDENTIARY HEARING**

On February 8, 2016, Petitioner Dwayne Wright filed a petition for writ of habeas corpus.

Dkt. 2. He also filed motions for the appointment of counsel and for an evidentiary hearing.

Dkts. 9 and 10. Under separate Order, the Court has directed service of the petition for writ of

habeas corpus. The petition has not yet been served and the time for Respondent to file an

answer to the petition and the relevant state court record has not yet passed

proceeding brought under 28 U.S.C. § 2254. If an evidentiary hearing is required, however, the Court may appoint counsel for a petitioner who qualifies under 18 U.S.C. § 3006(A)(g). Rule 8(c), 28 U.S.C. foll. § 2254. The Court may also appoint counsel at an earlier stage of the proceedings if the interest of justice so requires. *Id.*; 18 U.S.C. § 3006(A).

The decision to hold an evidentiary hearing is committed to the Court's discretion.

2 *Schriro v. Landrigan*, 550 U.S. 465, 481 (2007). A hearing is not required if the allegations  
3 would not entitle petitioner to relief under 28 U.S.C. § 2254(d). *Id.* at 474. “It follows that if the  
4 record refutes the applicant’s factual allegations or otherwise precludes habeas relief, a district  
5 court is not required to hold an evidentiary hearing.” *Id.*

6 Mr. Wright has not demonstrated that the interests of justice require the appointment of  
7 counsel or the need for an evidentiary hearing at this time. Accordingly, it is **ORDERED:**

8           (1)     Mr. Wright's motions for evidentiary hearing and for the appointment of counsel  
9 (Dkts. 9 and 10) are **DENIED without prejudice.**

10 (2) The Clerk shall send a copy of this Order to Mr. Wright and to counsel for  
11 Respondent.

DATED this 17<sup>th</sup> day of February, 2016.

*Ken Lstrom*

**Karen L. Strombom  
United States Magistrate Judge**